IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 13118 of 1996

Between:

The Depot Manager, APSRTC, Nizamabad Bus Depot.

..... PETITIONER

AND

1 S.Devender Singh (died) per LRs.
2 Smt. Mahender Kaur, W/o. Late S.D. Singh.
3 Kumari Sangeetha Maur, D/o. Late S.D. Singh.
4 Kum.Kavitha Kaur, D/o. Late S.D. Singh
5 Anup Singh , S/o. Late S.D. Singh,
RR 2 to 5 dismissed for default as per court order dt.14-2-03. Respondents 2 to 5 are brought on record as LRs of I.A.Petition)
C/o.Sri A.K. Jaya Prakash Rao, Advocate 3-4-206/2, Lingampalli, Hyderabad-27.
6 The Presiding Officer Labour court, II Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly in the nature of a writ of Certiorari, calling for the records relating to the Award in I.D.No. 677/92 dtd 18-5-95 published on 30.8.95 on the file of the Labour Court.II, Hyderabad and quash the same as being illegal.

Counsel for the Petitioner: MRS.A.VYJAYANTHI, Advocate

Counsel for the Respondents Nos.2 to 5: Dismissed for default

Counsel for the Respondent No.6: G.P. for Labour

The Court made the following :

HONOURABLE SRI JUSTICE K.C.BHANU

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W.P.No.13118 of 1996

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ORAL ORDER:

This writ petition is filed questioning the award, dated 18.5.1995 passed by the Labour Court-II, Hyderabad in I.D.No.677 of 1992.

A dispute was referred to the Labour Court with regard to the punishment imposed on the 1st respondent-employee in the departmental proceedings. The 1st respondent-employee died during the pendency of the Industrial Dispute. Therefore, respondents 2 to 5 were brought on record as legal representatives of the deceased employee. In the departmental enquiry, an order of removal was passed on 17.9.1987 by the disciplinary authority. The appellate authority also confirmed the removal order. Further, considering the evidence on record, the Labour Court gave a finding that the enquiry was held properly and the charges were proved against the 1st respondent-employee. Further, the Labour Court held that the 1st respondent-employee is entitled to reinstatement of his service but, as the 1st respondent-employee died during the pendency of the Industrial Dispute, he cannot be reinstated into service and therefore, the wife or any one of the children of the deceased employee, whoever is eligible, may be given a suitable employment. Questioning the same, the writ petition is filed.

Smt. A.Vyjayanthi, learned standing counsel appearing for the

petitioner-Corporation contended that such an order, giving employment to the wife of the 1st respondent-deceased employee cannot be passed and the same is contrary to the Section 11(a) of the Industrial Disputes Act, 1947.

The Labour Court ought not to have interfered with the finding of the disciplinary authority having held that the enquiry was properly conducted and the charge were proved and that serious allegations are levelled against the deceased employee, and the punishment imposed on deceased employee by the disciplinary authority cannot be said to be disproportionate to the proved misconduct. Though the order passed by the Tribunal calls for interference of this Court, the same cannot be set aside unless an opportunity is given to the legal heirs of the deceased employee. That apart, though the respondents 2 to 5 were added as legal representatives of the 1st respondent-deceased employee, the petitioner has not taken any steps with regard to payment of batta. Therefore, this Court vide order, dated 14.2.2003 dismissed the writ petition for default against respondents 2 to 4. In such view of the matter, this writ petition should be dismissed.

For the aforementioned reasons, the writ petition is dismissed. In the circumstances of the case, there shall be no order as to costs.

ASSISTANT REGISTRAR

/TRUE COPY/

SECTION OFFICER

23rd June, 2004

bcj

To

1. The Presiding Officer Labour court, II Hyderabad.

2. Two C.Cs to Government Pleader for Labour, High Court Buildings, Hyderabad (OUT)

3. Two C.D. copies